

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA**

BILL R. SNIDER,)	
)	
Petitioner,)	
v.)	No. 2:11-cv-168-JMS-WGH
)	
SUPERINTENDENT, Wabash Valley)	
Correctional Facility,)	
)	
Respondent.)	

**Entry (1) Dismissing Insufficient Claim and
(2) Directing Further Proceedings**

I.

Petitioner Snider's first claim is that asserted unreasonable delay in the state courts' post-conviction process has violated his federally secured rights. Although of significant institutional concern, such circumstances do not support a cognizable claim for federal habeas relief. *Montgomery v. Meloy*, 90 F.3d 1200, 1206 (7th Cir.) ("[u]nless state collateral review violates some independent constitutional right, such as the Equal Protection Clause, . . . errors in state collateral review cannot form the basis for federal habeas corpus relief"), *cert. denied*, 519 U.S. 907 (1996); *Williams v. State*, 640 F.2d 140, 143-44 (8th Cir.) ("Infirmities in the state's post-conviction remedy procedure cannot serve as a basis for setting aside a valid original conviction. . . . Errors or defects in the state post-conviction proceeding do not, *ipso facto*, render a prisoner's detention unlawful or raise constitutional questions cognizable in habeas corpus proceedings."), *cert. denied*, 451 U.S. 990 (1981). Accordingly, Snider's **first habeas claim is dismissed** pursuant to Rule 4 of the *Rules Governing Section 2254 Proceedings in the United States District Court*.

No partial final judgment shall issue at this time as to the claim dismissed above.

II.

This is an appropriate case in which to determine whether Snider's unexhausted claims would present a viable basis for federal habeas relief. To do that requires that Snider's claims be briefed on the merits. *See* 28 U.S.C. §

2254(b)(2); *see, e.g., Bell v. Cone*, 543 U.S. 447, 451, n. 3 (2005) (declining to address whether the court of appeals correctly held that the petitioner had not defaulted on his claim and citing 28 U.S.C. § 2254(b)(2) for the proposition that “an application for habeas corpus may be denied on the merits, notwithstanding a petitioner's failure to exhaust in state court”); *Lambrix v. Singletary*, 520 U.S. 518, 525 (1997) (noting that a federal court may deny a petition on the merits without resolving whether the issue was presented fairly to the state courts).

Accordingly, respondent shall have **through March 9, 2012**, to brief the merits of the claims raised in Snider’s petition for writ of habeas corpus. Snider shall have **through March 30, 2012**, to file his response to respondent’s brief.

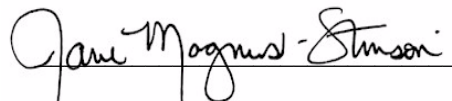
IT IS SO ORDERED.

Date: 01/25/2012

Distribution:

Bill Snider
#138872
Wabash Valley Correctional Facility
6908 S. Old U.S. Highway 41
P.O. Box 500
Carlisle, IN 47838

James Blaine Martin
james.martin@atg.in.gov


Hon. Jane Magnus-Stinson, Judge
United States District Court
Southern District of Indiana